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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/817,319

04/02/2004

John George Olin

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03/14/2005

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EXAMINER

PATEL, HARSHAD R

ART UNIT

PAPER NUMBER

2855

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

8m

Office Action Summary	Application No. 10/817,319	Applicant(s) OLIN, JOHN GEORGE	
	Examiner Harshad Patel	Art Unit 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 30-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 27-29 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-26 and 30-32, drawn to an apparatus, classified in class 73, subclass 204.22.
 - II. Claims 27-29, drawn to a method of making, classified in class 29, subclass 592.1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process by molding the components within the sensor housing.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.
5. During a telephone conversation with Mr. Becking on 2/22/05 a provisional election was made without traverse to prosecute the invention of group I, claims 1-26 and 30-32. Affirmation of this election must be made by applicant in replying to this Office action. Claims 27-29 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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6. The disclosure is objected to because of the following informalities: At page 11, paragraph (0035), line 9, "hole 20" should be changed to -- hole 22 --. Appropriate correction is required.

7. Claim 32 is objected to because of the following informalities: Claim is in an improper dependent format. Appropriate correction is required.

8. Claim 32 is objected to under 37 CFR 1.75(c) as being in improper form because of an improper form of multiple dependency. See MPEP § 608.01(n). Accordingly, the claim is not been further treated on the merits.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 30 and 31 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sunao et al. (JP-2000-155055).

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-14, 19 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zenichi (JP 54-089679) in view of admitted prior art (APA).

Zenichi teaches a temperature sensor comprising an elongate body comprising a housing shell (1), a distal end of the housing holding a spacer (3) for holding a temperature sensor therein.

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Zenichi does not specifically teach the sensor comprising an active region. However, it would have been obvious to a skilled individual to have an active region since when providing the thin-film sensing device, there would be an active region on which a thin-film layer is formed where an active region would also be formed. As to the device comprising a second sensor, the APA teaches a second temperature sensor provided for measuring ambient temperature. It would be obvious to a skilled artisan to provide a second temperature since such provision would provide the ambient temperature measurement to compensate for temperature changes during flow rate measurements.

As to claim 12, to provide a shoulder section, it would be within the scope of an individual skilled in the art to provide such a shoulder such that such an apparatus may be properly mounted within a device.

13. Claims 15-18, 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zenichi in view of Kiyoshi (JP 59-027586).

Zenichi shows all the features of the instant invention except for the powdered metal fabricated piece. Kiyoshi teaches a metal powdered material formed into a piece (2) that is positioned in a housing and cavities (4) formed for inserting temperature sensors. It would be obvious to a person having ordinary skill in the art to plasticize the powdered metal into a piece of metal since such would simplify the manufacturing and mess of powder to be placed in the housing.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ichiro et al. (JP-10-185702) teaches an apparatus comprising a sensor comprising an elongate body having an outer shell and filled with metal powder and inserted therein a thermocouple body for measuring temperature of the fluid.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harshad Patel whose telephone number is (571) 272-2187. The examiner can normally be reached on Monday-Thursday (7:00 AM-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Harshad Patel
Primary Examiner
Art Unit 2855

HP
3/7/05